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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/728,720	12/01/2000	Steven K. H. Foung	2002850-0009	5311

7590 03/22/2002

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Boston, MA 02109

EXAMINER

WORTMAN, DONNA C

ART UNIT	PAPER NUMBER
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1648

DATE MAILED: 03/22/2002

8

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/728,720

Applicant(s)

FOUNG ET AL.

Examiner

Donna C. Wortman, Ph.D.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-74 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-74 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1, 2, 4-7, 12 13, 15-23, 25-32, 66, 67, 70, insofar as drawn to antibodies specific for HCV E1 epitopes, corresponding pharmaceutical applications, and corresponding cell lines, classified in class 530, subclass 388.3, e.g.
- II. Claims 1, 3-23, 25-32, 66, 67, 70 insofar as drawn to antibodies specific for HCV E2 epitopes, corresponding pharmaceutical applications, and corresponding cell lines, classified in class 530, subclass 388.3, e.g.
- III. Claim 24, drawn to a virus, classified in class 435, subclass 235.1.
- IV. Claims 33, 34, 44-49, 51, 54, 63, 64, insofar as drawn to HCV E1 peptides, classified in class 530, subclass 350, e.g.
- V. Claims 35, 36-47, 50, 54, 60-65, insofar as drawn to HCV E2 peptides, classified in class 530, subclass 350, e.g.
- VI. Claims 50, 52, 53, 55-57, 64 insofar as drawn to organic agents similar to HCV E2 epitope, classified according to the chemical nature of the particular molecules.
- VII. Claims 51, 52, 55-57, 64, insofar as drawn to organic agents similar to HCV E1 epitope, classified according to the chemical nature of the particular molecules.
- VIII. Claims 51, 52, 55, 56, 58, 64, insofar as drawn to inorganic agents similar to HCV E1 epitope, classified according to the chemical nature of the particular molecules.

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- IX. Claims 50, 52, 53, 55, 56, 58, 64, insofar as drawn to inorganic agents similar to HCV E2 epitope, classified according to the chemical nature of the particular molecules.
- X. Claims 50, 52, 53, 55, 56, 59, 64, insofar as drawn to E2 mimotope, classified according to the chemical nature of the particular molecules.
- XI. Claims 51, 52, 55, 56, 59, 64, insofar as drawn to E1 mimotope, classified according to the chemical nature of the particular molecules.
- XII. Claims 66 and 69, insofar as drawn to diagnostic method using HCV E1 antibodies, classified in class 435, subclass 5.
- XIII. Claim 66, 68, and 69, insofar as drawn to diagnostic method using HCV E2 antibodies, classified in class 435, subclass 5.
- XIV. Claims 71, 73, 74, insofar as drawn to diagnostic method using HCV E1 peptide, classified in class 435, subclass 5.
- XV. Claims 71, 73, 74, insofar as drawn to diagnostic method using HCV E2 peptide, classified in class 435, subclass 5.
- XVI. Claim 72, insofar as drawn to diagnostic method using agent similar to HCV E2, classified in class 435, subclass 7.1, e.g.
- XVII. Claim 72, insofar as drawn to diagnostic method using agent similar to HCV E1, classified in class 435, subclass 7.1, e.g.
- XVIII. Claims 73 and 74, drawn to method of HCV genotyping using peptides, classified in class 435, subclass 5.

The inventions are distinct, each from the other because of the following reasons:

Inventions I-XI represent at least eleven distinctly different products, each having different chemical, physical, biological and/or immunological properties.

Inventions I and XII; II and XIII; IV and XIV; V and XV; VI, IX, X and XVI; VII, VIII, XI and XVII; IV, V and XVIII are related as product and process(es) of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the products can each be used in materially different processes such as affinity purification of antibodies or other proteins.

The methods of Inventions XII-XVIII are distinctly different methods requiring different reagents and/or different process steps and/or having different goals and outcomes. The method of invention XII does not require the products of Inventions II-XI; the method of Invention XIII does not require Inventions I and III-XI; the method of Invention XIV does not require Inventions I-III and V-XI; the method of Invention XV does not require Inventions I-IV and VI-XII; the method of XVI does not require Inventions I-V, VII, VIII, and XI; the method of Invention XVII does not require Inventions I-VI, IX, and X; the method of Invention XVIII does not require Inventions I-III and VI-XI.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, and/or because the search required any one group is not coextensive with the search required for any of the other groups, resulting in a burden on the Office if more than one group

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were to be examined together, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

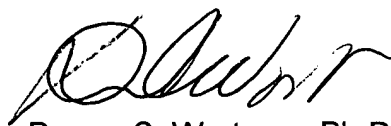
Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donna C. Wortman, Ph.D. whose telephone number is 703-308-1032. The examiner can normally be reached on Monday-Thursday, 7:30-5:00 and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Housel can be reached on 703-308-4027. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9307 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.



Donna C. Wortman, Ph.D.
Primary Examiner
Art Unit 1648

dcw
March 21, 2002